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SCSL-2003-02-PT-023
(254-257)

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**SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
FREETOWN – SIERRA LEONE**

Before: Judge Bankole Thompson
Designated Judge

Registrar: Robin Vincent

Date filed: 29 April 2003

THE PROSECUTOR

Against

FODAY SAYBANA SANKOH

also known as (aka) POPAY aka PAPA aka PA

CASE NO. SCSL – 2003 – 02 – PT

**PROSECUTION REPLY TO RESPONSE OF DEFENCE OFFICE TO
“PROSECUTION MOTION FOR IMMEDIATE PROTECTIVE MEASURES FOR
WITNESSES AND VICTIMS
AND FOR NON-PUBLIC DISCLOSURE”**

Office of the Prosecutor:

Luc Côté, Chief of Prosecutions
Brenda J. Hollis, Senior Trial Counsel

Defence Counsel:

John R.W.D. Jones,
Acting Chief of Defence Office

J.C. Juyang
29-04-2003
HISPAN

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INTRODUCTION

Consistent with prior decisions of the Court, the Prosecution requests that the Court take appropriate action to suspend the Rules of Procedure and Evidence pertaining to filing responses to motions or to otherwise dispose of the pending Prosecution Motion for Immediate Protective Measures For Witnesses and Victims and for Non-Public Disclosure, with no prejudice to the right of the Prosecution to file such protective measures motions as may be appropriate in the future.

BACKGROUND

1. On 15 March 2003 the Initial Appearance of this Accused was commenced. Judge Itoe, the Designated Judge, adjourned the Initial Appearance until 20 March 2003 and ordered a physiological and psychiatric examination of the Accused (Order for Physiological and Psychiatric Examination and Detention on Remand, dated 15 March 2003).

2. On 17 March 2003, Judge Itoe, the Designated Judge, further adjourned the Accused's Initial Appearance until 21 March 2003
3. On 21 March 2003, at the second session of the Accused's Initial Appearance, Judge Itoe ordered further physiological and psychiatric examination of the Accused and adjourned the matter to a date after consultation with all parties concerned. (Order for Further Physiological and Psychiatric Examination, dated 21 March 2003)
4. The Prosecution filed two motions dated 7 April 2003, Extremely Urgent Prosecution Motion to Allow Disclosure to the Registry and to Keep Disclosed Material Under Seal Until Appropriate Protective Measures Are In Place, and Prosecution Motion for Immediate Protective Measures For Witnesses and Victims and for Non-Public Disclosure, both motions dated 7 April 2003.
5. By Decision dated 17 April 2003, Judge Thompson, the Designated Judge, denied the Prosecution motion to allow disclosure to the Registry. In that decision, the Designated Judge noted that the Court had previously "deemed ... that the beginning date of the Prosecution's disclosure obligations pursuant to Rule 66 (A) (i) shall run from the date of conclusion of the initial appearance of an accused." The Designated Judge confirmed that the initial appearance of the Accused has not been concluded, and, therefore, concluded that the Prosecution motion for disclosure to the Registry was premature. The Designated Judge stated that the Court would "dispose on the scheduling of the time limits of the Prosecution's disclosure obligations ... with appropriate order, if necessary."
6. The decision on the Protective Measures motion is pending.

ARGUMENT

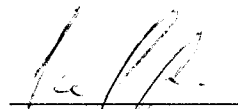
7. With the understanding that the Prosecution's disclosure obligations pursuant to Rule 66 (A)(i) will not begin to run until such time as the Initial Appearance of the Accused is concluded, the Prosecution agrees that a substantive response to, and decision on, the Prosecution motion for protective measures would be premature.
8. The Prosecution suggests that the Court may deal with the pending motion in a variety of ways, including holding the matter in abeyance until such time as the Initial Appearance is concluded, suspending the Rules relating to responses to motions, or dismissing the Prosecution motion as premature. The Prosecution submits that, if the third option is exercised, the dismissal would be without prejudice to the Prosecution's ability to file such protective measures motions as may be appropriate in the future.

CONCLUSION

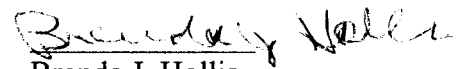
The Court should dispose of the pending protective measures motion as the Court deems appropriate, with no prejudice to the right of the Prosecution to file such protective measures motions as may be appropriate in the future.

Freetown, 29 April 2003

For the Prosecution,



Luc Côté,
Chief of Prosecutions



Brenda J. Hollis
Senior Trial Counsel